

NORTH CAROLINA
WAKE COUNTY



BEFORE THE DISCIPLINARY
HEARING COMMISSION OF
THE NC STATE BAR
04 DHC 21

THE NORTH CAROLINA STATE BAR,)

Plaintiff,)

v.)

MICHAEL H. MCGEE, ATTORNEY,)

Defendant.)

PETITION FOR REINSTATEMENT
TO ACTIVE STATUS

NOW COMES THE PETITIONER, Michael H. McGee, and asks that the Disciplinary Hearing Commission of the North Carolina State Bar, pursuant to Subchapter B, Section .0125 of the Rules, reinstate his license to practice law. In support of this Petition, the petitioner says as follows, under penalty of perjury:

1. The Order of Discipline was issued on August 27, 2004. More than five years have passed since this date, and therefore the time requirements of the Rules of Discipline have been met.

2. If the reinstatement is granted, the petitioner will comply, without the necessity of a hearing, which he hereby waives, with any reasonable conditions imposed by the DHC on granting the reinstatement. Since the petitioner currently resides in the Republic of the Philippines, if a hearing must be held, he requests to be present at the hearing via telephone. The petitioner can provide a toll-free number for the Hearing Committee to connect with the petitioner in Manila.

3. Having fully recovered from his illness, as documented by records in the possession of the DHC, the lack of judgment demonstrated by the petitioner is not ever, at any time, going to recur. The petitioner acknowledges that he accepts the evidence found to be factual by the DHC, subject to lawful appellate review. He asserts that there was never any specific intent to deceive, and ascribes the acts to poor judgment on his part.

4. The petitioner asserts that the DHC does not have the constitutional authority to find that the acts were criminal in nature. He is making his assertions in a lawful manner before the North Carolina Supreme Court at the present time.

5. The petitioner recognizes, however, that the Rules of Professional Conduct concerning the allegation and finding of criminal acts were binding and mandatory for the prosecutors and for the DHC, and that the DHC does not have the authority to make constitutional findings regarding these Rules. Therefore the Rules did at all relevant times permit, and in some senses require, the DHC to find the presence of criminal conduct based on certain acts committed by an attorney.

4. Thus the petitioner asserts that he understands the current Rules of Professional Conduct. The petitioner further states that he has reformed, and has at present the full capacity to comply with the Rules of Professional Conduct. The petitioner cites a period of over thirty years when he was in the practice of law where there was never at any time a violation of the Rules of Professional Conduct, or of any criminal law other than minor traffic violations, and asks that the prior record of the petitioner be used as a measuring stick to determine that he has the present ability to currently understand and comply with the Rules of Professional Conduct, and has the full moral capacity to do so.

5. The respondent acknowledges that the DHC in its 2007 decision found that the respondent had engaged in two acts constituting the unauthorized practice of law. The petitioner asserts that he has already been punished for these findings by being denied the early reinstatement of his license to practice law.

6. Neither of these two acts would have come to the attention of the DHC had the respondent not voluntarily introduced into evidence the documents which were used as evidence that the respondent had engaged in the unauthorized practice of law. One was introduced in his own presentation, the other in an honest response to a question from the prosecutor. The petitioner believed that these two sets would demonstrate economic consultation and not the unauthorized practice of law. Nevertheless, he put them before the DHC for their evaluation, and their evaluation was that the documents did constitute the unauthorized practice of law.

7. The voluntary disclosure of these documents should be used as a factor in deciding whether the respondent was willing to approach the DHC with a commitment to honesty and truth, and with a respect for and lack of intent to deceive the DHC, and therefore with a present moral commitment to practice law within the standards imposed by the Rules of Professional Responsibility.

8. The petitioner has complied with all other requirements for readmission to the practice of law as stated in the Rules and Regulations.

9. With regard to subparagraph (3) (I) of Rule .0125 (b), the petitioner asserts that he has completed within the last few months 15 hours of CLE approved by the Board of Continuing Legal Education. Three hours of these credits were earned by attending a course of instruction devoted exclusively to professional responsibility. The courses taken, or to be taken on the stated

date, are as follows:

(a) August 20-21, 2009. Completed 9.5 hours of NC CLE from the NC Bar Foundation, Charlotte, NC, 30th Annual Estate Planning & Fiduciary Law Program.

(b) July 27, 2009. Completed 1.0 hours of NC general CLE on-line from the NC Bar Association. The title of the training is "HIPPA at the Eleventh Hour."

(c) July 27, 2009. Completed 1.0 hours of NC general CLE on-line from the NC Bar Association. The title of the training is "Employment Agreements Essentials."

(d) July 27, 2009. Completed 1.0 hours of NC general CLE on-line from the NC Bar Association. The title of the training is "EEOC's Guidance on Race and Color Discrimination."

(d) . September 1, 2009. Completed or will complete 3.0 hours of NC Specialized Ethics CLE in Charlotte, NC, from Jim Blackburn Seminars, LLC. The title of the training is "Ethics."

WHEREFORE, the petitioner ask the DHC to take the following actions:

1. Restore the petitioner's license to practice law, effective on or about thirty days after the date five years after the final notice of suspension was received by the petitioner.

2. The petitioner agrees to be subject to any reasonable terms and conditions imposed by the DHC on restoring his license, without the necessity of a hearing. Since the petitioner currently resides in the Republic of the Philippines, if a hearing must be held, he requests to be present at the hearing via telephone. The petitioner can provide a toll-free number for the Hearing Committee to connect with the petitioner in Manila.

3. Publish in the Bar Journal and in other required locations a notice of the petitioner's reinstatement to the practice of law.

4. Grant such other and further relief to which the petitioner may be entitled.

Michael H. McGee

Michael H. McGee
Defendant pro se
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Hinesburg, VT 05461
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VERIFICATION

I, Michael H. McGee, being first duly sworn, depose and say:

That I am the Petitioner in the Foregoing Petition for Reinstatement to Active Status, and the contents set forth therein are true of my own knowledge, except as to those matters set forth therein upon information and belief, and as to those things I believe them to be true.

Michael H. McGee

Michael H. McGee

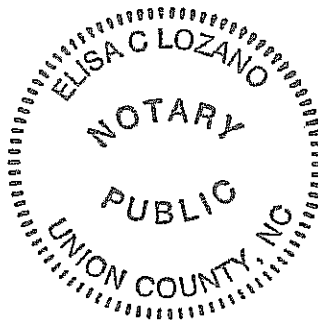
Sworn to and subscribed before me,

this 31 day of August, 2009.

Elisa C. Lozano

Notary Public

My Comm. Expires: 12/05/2012




CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Petition for Reinstatement to Active Status on all parties herein by delivering copies thereof by United States Mail, postage prepaid, to Counsel herein at the following address:

Katherine E. Jean, Counsel
Office of Counsel
North Carolina State Bar
P.O. Box 25908
Raleigh, NC 27611-5908

This the 18th day of September, 2009.


Michael H. McGee